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**R590. Insurance, Administration****R590-219. Credit Scoring. (Effective 6-13-03)****R590-219-1. Authority.**

This rule is promulgated pursuant to Subsection 31A-2-201(3)(a) in which the commissioner may make rules to implement the provisions of this title. Also, specific authority is provided in Subsection 31A-22-320(3) to enforce the provisions of Section 31A-22-320.

**R590-219-2. Scope and Purpose.**

This rule sets forth minimum standards for all property and casualty insurers doing private passenger automobile business in Utah that use credit history or an insurance score as part of their underwriting criteria or rating plans.

**R590-219-3. Definitions.**

In addition to the definitions in Section 31A-1-301 and 31A-22-320, the following definition shall apply for the purposes of this rule:

(1)(a) "Initial underwriting" shall include:

- (i) deciding whether or not to issue a policy to the consumer;
- (ii) the amount and terms of the coverage;
- (iii) the duration of the policy;
- (iv) the rates or fees charged; and

(v) those additional drivers related to the named insured or spouse by blood, marriage, adoption, or guardianship who were emancipated prior to becoming an additional driver in the named insured's household.

(b) "Initial underwriting" shall not include additional vehicles or drivers added to the household of a current auto insurance policyholder of the insurer, provided:

(i) the additional vehicle is owned by the named insured, spouse or persons related to the named insured by blood, marriage, adoption, or guardianship that are residents of the named insured's household;

(ii) the additional driver is related to the named insured or spouse by blood, marriage, adoption, or guardianship and is a resident of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere.

(iii) a divorced spouse or child where an insurer has a record of the driving history from an existing policy.

(2) "Adverse action" shall have the same meaning as defined in the Fair Credit Reporting Act, 15 U.S.C. sec.1681 et seq. An adverse action includes the following:

(a) cancellation, denial or non-renewal of insurance coverage;

(b) charging a higher premium than would have been offered if the credit history or credit score had been more favorable, whether the charge is by:

(i) application of a rating rule;

(ii) assignment to a rating category within a single insurer, into which insureds with substantially like risk or exposure factors and expense elements are placed for purposes of determining rate or premium, that does not have the lowest available rates;

(iii) placement with an affiliate insurer that does not offer the lowest rates available to the consumer within the affiliate group of insurers; or

(iv) a reduction or an adverse or unfavorable change in the terms of coverage or amount of insurance owing to a consumer's credit history or insurance score.

(c) A reduction or an adverse or unfavorable change in the terms of coverage occurs when:

- (i) coverage provided to the consumer is not as broad in scope as coverage requested by the consumer but available to other insureds of the insurer or any affiliate; or
- (ii) the consumer is not eligible for benefits such as dividends that are available through affiliate insurers.

**R590-219-4. Insurer's Obligation If Credit Information Is Used.**

(1) An insurer must comply with all notification requirements of the federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq. If any adverse action is taken, the insurance company must provide to the applicant or insured:

(a) the identity, telephone number, and address of any consumer-reporting agency from which a credit report was obtained;

(b) notification of the applicant's or insured's right to receive a free copy of their credit report from the consumer reporting agency for a period of 60 days from the date of application; and

(c) notification of the applicant's or insured's right to lodge a dispute with the consumer-reporting agency and have erroneous information corrected in accordance with the Fair Credit Reporting Act.

(2) After an adverse action is taken, if it is later determined that the initial information in the credit report was incorrect, the insurance company, at the request of the applicant or insured, shall underwrite or rate the policy again using the correct information. If the insurer determines that the insured has overpaid premium, the insurer shall refund to the insured the amount of overpayment calculated back to the shorter of either the last 12 months of coverage or the actual policy period.

(3) An insurer shall establish procedures that allow consumers or their insurance producers to request that a person's credit history or score be re-examined if a correction has been made to the consumer's credit report.

(4) An insurer shall refrain from penalizing consumers on new and renewal policies issued on or after the effective date of this rule based on identity theft; credit inquiries not initiated by the consumer; insurance-related inquiries; medical related collection accounts, if the information can be identified on a credit report; and multiple lender inquiries, if captured on a credit report as being from the home mortgage industry and made within a 30 day period, unless only one inquiry is considered.

**R590-219-5. Prohibited Uses of Credit Information.**

Insurers may not use credit information:

(1) to cancel or non-renew any private passenger auto insurance policy that has been in effect for 60 days or more;

(2) for initial underwriting, unless risk related factors, other than credit information, are considered;

(3) to determine rates as part of a filed rating plan for private passenger auto insurance, except to provide a premium discount or similar reduction in rates and, when an insurer issues a new or renewal policy on or after the effective date of this rule with a discount based on credit, that discount shall not be removed or reduced based on credit information only;

(4) to cancel or non-renew an existing private passenger auto insurance policy which has been in effect for 60 days or more, nor decline or refuse to issue a new policy or coverage for an additional vehicle owned by the named insured or persons related to the named insured by blood, marriage, adoption, or guardianship who are residents of the named insured's household; or

(5) to cancel or non-renew an existing private passenger auto insurance policy which has been in effect for 60 days or more when adding a newly licensed driver who is related

to the named insured by blood marriage, adoption, or guardianship, and continues to be a resident of the named insured's household.

**R590-219-6. Offer of Placement.**

An offer of placement with an affiliated insurance company is not considered a cancellation, non-renewal, declination, or refusal to issue a policy.

**R590-219-7. Enforcement Date.**

The commissioner will begin enforcing the provisions of this rule 45 days from the rule's effective date.

**R590-219-8. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: insurance, credit scoring**

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**31A-2-201**

**31A-22-320**

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